

UNITED STATE DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ERIC LEE ERICKSON,

Plaintiff,

v.

JOSEPH LEHMAN, et al.,

Defendants.

CASE NO. C05-867-JLR

ORDER DECLINING TO SERVE  
COMPLAINT AND GRANTING  
LEAVE TO AMEND

Plaintiff is currently incarcerated at Snohomish County Corrections in Everett, Washington. He is proceeding *pro se* and *in forma pauperis* in this action pursuant to 42 U.S.C. § 1983. The Court, having reviewed Plaintiff's complaint and the balance of the record, does hereby find and ORDER:

(1) Plaintiff alleges in his complaint that the Washington State Department of Corrections ("DOC") refuses to credit his good time credits for good behavior towards his current judgment and sentence. He contends that his current incarceration violates his liberty interests under the Fourteenth Amendment of the federal constitution. Plaintiff names the following as defendants: a) Joseph Lehman, Secretary, State of Washington Department of Corrections; b) Kerry Corr, Supervisor; and c) Bartley Larrabee, Community Corrections Officer.

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AND GRANTING LEAVE TO AMEND - 1

(2) Plaintiff is advised that in order to maintain a cause of action under 42 U.S.C. § 1983, he must show (a) that he suffered a violation of rights protected by the Constitution or created by federal statute, and (b) that the violation was proximately caused by a person acting under color of federal law. *See Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, plaintiff must allege facts showing how individually named defendants caused or personally participated in causing the harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981). Suit brought pursuant to § 1983 cannot be based on vicarious liability alone, but must alleged that defendants' own conduct violated the plaintiff's civil rights. *City of Canton v. Harris*, 489 U.S. 378, 385-90 (1989); *Monell v. Department of Social Servs.*, 436 U.S. 658, 694 (1978).

(3) In light of the above rules governing § 1983 actions, plaintiff's complaint is deficient. Therefore the Court declines to order that the complaint be served unless and until Plaintiff corrects the deficiencies identified below:

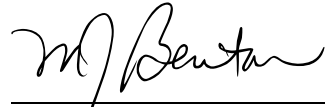
- Plaintiff fails to allege that any of the named defendants personally participated in causing the harm alleged in the complaint. If plaintiff wishes to sue an individual, he must show how the individual caused or personally participated in the alleged harm.

(4) Plaintiff may file an amended complaint curing the above-mentioned deficiencies within thirty (30) days of the date on which this Order is signed. The amended complaint must carry the same number as this case. **If no amended complaint is timely filed, the Court will recommend that this matter be dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted, and such dismissal will count as a "strike" under 28 U.S.C. § 1915(g).**

1 Plaintiff is advised that an amended pleading operates as a *complete* substitute for  
2 an original pleading. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (citing  
3 *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir.  
4 1990) (as amended), *cert. denied*, 506 U.S. 915 (1992)). Thus, if plaintiff chooses to file  
5 an amended complaint, the Court will not consider his original complaint.

6 (5) The Clerk is directed to send plaintiff the appropriate forms so that he may  
7 file an amended complaint. The Clerk is further directed to send copies of this Order,  
8 and of the General Order to plaintiff and to the Honorable James L. Robart.

9 DATED this 22nd day of June, 2005.

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13 MONICA J. BENTON  
14 United States Magistrate Judge  
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